MONTANA LEGISLATIVE HISTORY

Chapter 539 1955

Bill H _____ S 346 Original bill & history ___C

H. Committee on Nat'l Resources		S. Committee on Nat'l Resources	
Hearing Date(s) Mc/20	✓C	Hearing Date(s) Feb 13	✓C
Mc/21	✓C	Feb 18	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mc/22	✓C	Feb 20	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Conference Committee
Apr 07

Note: The Free Conference Committee Minutes were not recorded.

SB 345 INTRODUCED BY SWYSGOOD, ET AL.

IMPLEMENT RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY CREATING A NEW DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

BY REQUEST OF THE OFFICE OF THE GOVERNOR

2/09	FISCAL NOTE REQUESTED		
2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO STATE ADMINISTRATION		
2/14	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/15	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED		
3/03	2ND READING PASSED AS AMENDED	37	12
3/04	3RD READING PASSED	34	13
	TRANSMITTED TO HOUSE		
3/06	FIRST READING		
3/06	REFERRED TO STATE ADMINISTRATION		
3/15	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED AS AMENDED	53	46
3/29	3RD READING CONCURRED	62	37
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	48	2
4/06	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE REPORT NO. 1		
4/07	HEARING		
4/08	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	34	14
4/10	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	34	15
	HOUSE		
4/06	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	59	39
4/12	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	56	44
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR CHAPTER NUMBER 546 EFFECTIVE DATE: 07/01/95		

SB 346 INTRODUCED BY FORRESTER, ET AL.

ALLOW BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO TEMPORARILY MODIFY WATER QUALITY STANDARDS

BY REQUEST OF THE DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

2/10	INTRODUCED
2/10	FIRST READING
2/10	REFERRED TO NATURAL RESOURCES
2/11	FISCAL NOTE REQUESTED
2/13	HEARING
2/17	FISCAL NOTE RECEIVED
2/17	FISCAL NOTE PRINTED
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED

2/21	2ND READING PASSED	50	0
2/22	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/27	FIRST READING		
2/27	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED AS AMENDED	95	0
3/28	3RD READING CONCURRED	85	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS NOT CONCURRED	46	0
4/04	CONFERENCE COMMITTEE APPOINTED		
4/07	HEARING		
4/07	CONFERENCE COMMITTEE DISSOLVED		
	HOUSE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE DISSOLVED		
	SENATE		
4/07	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/12	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
	HOUSE		
4/07	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	97	2
4/12	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	88	9
4/13	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR CHAPTER NUMBER 539 EFFECTIVE DATE: 04/27/95		

SB 347 INTRODUCED BY CRISMORE, ET AL.

AUTHORIZE DEPARTMENT OF STATE LANDS TO NEGOTIATE RECIPROCAL ACCESS TO FACILITATE MANAGEMENT OF ISOLATED STATE FOREST LANDS

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO NATURAL RESOURCES		
2/15	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	41	9
2/21	3RD READING PASSED	41	9
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	71	28
3/27	3RD READING CONCURRED	73	25

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0346, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act allowing the Board of Health and Environmental Sciences to temporarily modify water quality standards.

ASSUMPTIONS:
1. This legislation will enable potential water dischargers to request the establishment of temporary standards. The discharger will have the responsibility of preparing and justifying the request.

FISCAL IMPACT:
Passage of SB346 will have no fiscal impact on state government.

Dave Lewis 2-17-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

GARY FORRESTER, PRIMARY SPONSOR DATE

SENATE BILL NO. 346

INTRODUCED BY FORRESTER, HALLIGAN, GROSFIELD, KNOX

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO TEMPORARILY MODIFY WATER QUALITY STANDARDS; AMENDING SECTIONS 75-5-301 AND 75-5-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is provided for this bill because it allows the board of health and environmental sciences to adopt rules establishing temporary water quality standards.

The principle behind establishing temporary water quality standards is that there are Montana surface and ground waters that are of lower quality than the applicable water quality standards. The legislature intends that the temporary water quality standards may not be established for waters that are impaired but still support their beneficial uses. Temporary standards may be established only when substantive information indicates that the water body or water segment does not support a designated use for its classification. The goal of establishing temporary standards is to improve the quality of the water to the point at which it supports the beneficial uses for its classification.

The establishment of temporary standards provides a legal basis that facilitates improvement of the water quality for those waters and allows, in limited circumstances, discharges to those waters. The rules must reflect the legislature's intent that establishing temporary water quality standards will trigger development and implementation of a plan with the overall goal of continuously improving the quality of the water during the period of the modification to the point that beneficial uses are supported. At no time during the period of a modification should a discharge be allowed that will cause water quality to become worse than the quality of the water body or segment prior to the discharge.

The legislature recognizes that persons may desire to commence discharging to the water body or segment for which a standard has been temporarily modified during the period of the modification. Any discharges that are allowed should not in any way slow or impede the improvement of the water body or segment.

REFERENCE BILL: INCLUDES FREE CONFERENCE COMMITTEE REPORT DATED 4-10-95

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-5-301, MCA, is amended to read:

"**75-5-301. Classification and standards for state waters.** Consistent with the provisions of 75-5-302 through 75-5-307 and 80-15-201, the board shall:

(1) establish and modify the classification of all waters in accordance with their present and future most beneficial uses;

(2) formulate standards of water ~~purity~~ quality and classification of water according to its most beneficial uses, giving consideration to the economics of waste treatment and prevention. ~~If~~ WHEN rules are adopted regarding temporary standards, they must conform with the requirements of [section 3]~~;~~.

(3) review, from time to time at intervals of not more than 3 years, established classifications of waters and standards of water ~~purity~~ quality and classification;

(4) adopt rules governing the granting of mixing zones, requiring that mixing zones granted by the department be specifically identified, and requiring that mixing zones have:

(a) the smallest practicable size;

(b) a minimum practicable effect on water uses; and

(c) definable boundaries;

(5) adopt rules implementing the nondegradation policy established in 75-5-303, including but not limited to rules that:

(a) provide a procedure for department review and authorization of degradation;

(b) establish criteria for the following:

(i) determining important economic or social development; and

(ii) weighing the social and economic importance to the public of allowing the proposed project against the cost to society associated with a loss of water quality; and

(c) establish criteria for determining whether a proposed activity or class of activities will result in nonsignificant changes in water quality for any parameter in order that those activities are not required to undergo review under 75-5-303(3). These criteria must be established in a manner that generally:

(i) equates significance with the potential for harm to human health or the environment;

(ii) considers both the quantity and the strength of the pollutant;

(iii) considers the length of time the degradation will occur; and

(iv) considers the character of the pollutant so that greater significance is associated with carcinogens and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less harmful or less persistent.

(6) to the extent practicable, ensure that the rules adopted under subsection (5) establish objective and quantifiable criteria for various parameters. These criteria must, to the extent practicable, constitute guidelines for granting or denying applications for authorization to degrade high-quality waters under the policy established in 75-5-303(2) and (3).

(7) adopt rules to implement this section."

Section 2. Section 75-5-302, MCA, is amended to read:

"**75-5-302. Revised classifications not to lower water quality standards -- exception.** (1) ~~In~~ Except as provided in subsection (2), in revising classifications or standards or in adopting new classifications or standards, the board may not ~~so~~ formulate standards of water ~~purity~~ quality or classify any state water ~~as to lower~~ in a manner that lowers any water quality standard applicable to any state water below the level applicable under the classifications and standards adopted ~~except upon a finding~~ unless the board finds that a particular state water has been classified under a standard or classification of water quality that is higher than the actual water quality that existed at the time of classification and only if the action is taken pursuant to 75-5-307.

(2) Establishment of a temporary water quality standard ~~under [section 3]~~ OR CLASSIFICATION does not require a finding that the affected state water was classified under a standard or classification that was higher than the actual water quality that existed at the time of the prior classification."

NEW SECTION. **Section 3. Temporary water quality standards.** (1) The board may on its own, upon recommendation of the department, or upon a petition for rulemaking by a person, including a permit applicant or permittee, temporarily modify a water quality standard for a specific water body or segment on a parameter-by-parameter basis in those instances in which substantive information indicates that the water body or segment is not supporting its designated uses. When the board adopts temporary standards, the goal is to improve water quality to the point at which ~~all designated~~ AN ADDITIONAL beneficial USE OR uses are supported.

(2) As a condition for establishing temporary water quality standards for a particular water body

or segment, the department or the petitioner, as applicable, shall prepare a support document and implementation plan for use by the board in determining whether to adopt a proposed temporary water quality standard.

(3) If a person petitions for rulemaking under this section, the petition must specifically describe the affected state water, the existing ambient water quality for the parameter or parameters at issue, the water quality standard or standards affected, and the temporary modifications sought. Within 180 days after the board grants a petition to initiate rulemaking, the petitioner shall prepare and submit to the board and the department a proposed support document and implementation plan that sets forth:

(a) the water quality limiting factors affecting the water body or segment;

(b) THE existing beneficial USE OR uses and the beneficial USE OR uses considered attainable in the absence of the water quality limiting factors;

(c) an implementation plan to eliminate the water quality limiting factors to the extent considered achievable; and

(d) a schedule for implementing the plan that ensures that the water quality standards FOR THE PARAMETER OR PARAMETERS AT ISSUE are met as soon as reasonably practicable and in no event later than the time allowed by the board in the temporary standard.

(4) Upon the board's adoption of a temporary water quality standard, the department shall ensure that REASONABLE conditions and limitations designed to achieve compliance with the IMPLEMENTATION plan are established in appropriate discharge permits.

(5) (A) A temporary modification of a water quality standard may not result in adverse impacts to existing beneficial uses or be established for a TOTAL period ~~longer than~~ ~~OF~~ LONGER THAN 20 years ~~from the board's initial adoption of the temporary standard~~.

(B) DURING THE PERIOD OF THE TEMPORARY MODIFICATION, THE BOARD MAY NOT ALLOW A DISCHARGE THAT WILL CAUSE OVERALL WATER QUALITY TO BECOME WORSE THAN THE OVERALL QUALITY OF THE WATER BODY OR SEGMENT PRIOR TO THE DISCHARGE.

(6) If a state water is designated as having temporary standards, the department shall report to the board at least every 3 years or upon request of the board regarding whether adequate efforts have been made to implement the plans submitted as the basis for the temporary standard.

(7) The board shall review temporary standards at least every 3 years at a public hearing for which notice and an opportunity for comment have been provided. The board may terminate the temporary

standard based on information submitted at the time of its review THAT THE APPLICANT IS NOT COMPLYING WITH THE APPROVED IMPLEMENTATION PLAN.

(8) The board shall terminate a temporary standard FOR A PARAMETER if:

(a) values for the modified parameter or parameters improve to conditions that support all designated uses for that classification;

(b) the state water for which the temporary standard is adopted is reclassified as provided for in 75-5-302; or

(c) the plan submitted in support of the temporary water quality standard is not being implemented according to the plan's schedule or modifications to that schedule made by the board or department.

(9) THE BOARD MAY MODIFY THE PLAN IF THE PERMITTEE SUBMITS CONVINCING EVIDENCE TO THE BOARD THAT THE PLAN NEEDS MODIFICATION. THE BOARD MAY NOT EXTEND THE PLAN BEYOND A TOTAL PERIOD OF 20 YEARS.

~~(9)~~(10) If a temporary standard for a parameter in a particular state water is terminated because the plan submitted in support of the temporary water quality standard is not being implemented according to the plan's schedule or modifications to that schedule made by the board or department, a person may request a new temporary standard by submitting both a petition for rulemaking and a plan that meet the requirements of subsections (2) and (3). However, the board may not adopt another temporary standard for the parameter in the state water that would cumulatively ~~extend beyond~~ BE IN EFFECT FOR A TOTAL PERIOD LONGER THAN 20 years ~~from the date of the board's adoption of the initial temporary standard~~ for the parameter ~~and~~ IN THE state water.

NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 75, chapter 5, part 3, and the provisions of Title 75, chapter 5, part 3, apply to [section 3].

NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

-END-

Free Conference Committee
on SB 346
Report No.1, April 10, 1995

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 346, met and considered:

House Committee on Natural Resources amendments to the third reading copy dated March 22, 1995.

We recommend that SB 346 (reference copy - salmon) be amended as follows:

1. Page 3, line 19.
Strike: "under [section 3]"
Insert: "or classification"

2. Page 4, lines 21 and 22.
Strike: "OF" on line 21
Insert: "longer than"
Strike: "from" on line 21 through "standard" on line 22.

3. Page 4, line 24.
Following: "CAUSE"
Insert: "overall"
Following: "THAN THE"
Insert: "overall"

And that this Free Conference Committee report be adopted.

For the Senate:

Beck
Chair

Grosfield

Forrester

Amd. Coord.

Sec. of Senate

For the House:

Knox
Chair

Ohs

Shea

ADOPT

REJECT

SB 346
FCCR #1
821114CC.SRF

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 13, 1995, at 1:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 330, SB 331, SB 346, SB 362, SB 371
Executive Action: SB 234

HEARING ON SB 346

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, said SB 346 allows for a compromise position for cleanup of some waters that have been disputed for a number of years, and without SB 346 will probably continue to be in dispute.

Proponents' Testimony:

Steve Pilcher, Administrator Water Quality Division, Department of Health and Environmental Sciences, said the department has attempted to deal with the problem that they have been facing in

administering the Montana Water Quality Act. When Montana streams were classified in the 1960's, water quality information was very limited, and a number of streams were not classified at the time. A good example is the upper Blackfoot River near Lincoln where mining activities of the Mikehorse, Anaconda, and Paymaster Mines seriously impacted the quality of the Blackfoot River. SB 346 provides a mechanism to restore those waters that have suffered from past mining operations, to a better quality. **EXHIBIT 1**

Alan Joscelyn, Attorney, Helena, said he worked with DHES in helping to put SB 346 together. The bill would allow the department to change the standards to adopt rules establishing temporary water quality standards in Montana.

Florence Orr, Pony, representing the Northern Plains Resource Council, said they were in support of SB 346 as a vehicle to prevent further degradation of water quality in Montana. They have over 2,000 members who believe in good stewardship of their natural resources. The permittee must be responsible for the quality of water, but that has not been the case in Pony where the Chicago Mining Company left tailings that have contaminated the water.

Larry Brown, representing the Agriculture Preservation Association, said he agrees with the department that the there is a need for flexibility to reclassify the waters that do not support a designated use. He supports SB 346.

Jim Barrett, Cooke City, agrees that SB 346 represents a positive step towards dealing with problems that have been ongoing for 40-50 years. In Cooke City there is a large corporation, that resides in another country, that has a smalller subsidiary that is a permittee for a proposed mine there. But this permittee does not have many resources to carry out any kind of plan for clean-up. There needs to be some assurance that a clean-up plan would be carried out as a stipulation for a permit.

<u>Opponents' Testimony</u>:

Brian Kuehl, representating the Greater Yellowstone Coalition, which is a coalition of over 6,000 individual members and over 100 corporation and organizational members, said he was against SB 346 because the classification of a stream means that a stream is fishable and swimmable or can become fishable and swimmable. Subsection 3 states: "When the board adopts temporary standards, the goal is to improve water quality to the point at which all designated beneficial uses are supported." That is no reason for reclassifying a stream. If the stream is not meeting its uses, it should be cleaned-up. The water quality standards should not be lowered to establish temporary standards. There may be a need for a small temporary standard, but not as broad and widespread as the bill indicates.

Jim Jenson, Director Montana Environmental Information Center, said he was against SB 346 because it was not needed. In the upper Blackfoot River that has been significantly damaged over the years by historic mining activities, the water is being cleaned-up under a permit granted last year to Asarco who owns the mine. The permit has specific goals that are achievable to meet the water quality standards. He wondered why there would be a bill to reclassify that stream.

Debby Smith, Helena Attorney representing the Sierra Club, said the goal behind SB 346 is to provide temporary water quality standards that are more stringent on a parameter-by-parameter basis than existing water quality standards for a particular water body whose designated beneficial uses are not being met. Already in place under the Water Quality Act are rules and regulations for clean-up of streams. She requested that the committee table the bill. **EXHIBIT 2.**

Kenneth Knapp, Executive Director Montana River Action Network, said he represents 700 members in the state. He agrees with the opponents who testified that the bill is not needed. He said for nearly 15 years he made his living as an outdoor writer for over 200 magazines throughout the world, promoting Montana. He said water quality should be improved, not degraded. **EXHIBIT 3.**

Joe Gutkoski, President Madison/Gallatin Alliance, said he supported the concept of SB 346, but it is entirely too open-ended. The 20 year time limit is too long for clean-up.

Questions From Committee Members and Responses:

SEN. KEN MILLER said it seems that the DHES already has the applicable laws for what the bill intends to do, according to testimony by **Ms. Smith** and **Mr. Jensen.** **Mr. Pilcher** said he would agree with a portion of their testimony. He did not agree that the additional legislation is not needed. The bill legitimizes the process that was currently in place. Regardless of testimony, the upper Black Foot River and many others in the state do not meet the assigned water quality standards. There are stream segments that are in violation of the Water Quality Act and their standards. SB 346 would allow people to work toward compliance without being in violation of the Water Quality Act.

SEN. B. F. "CHRIS" CHRISTIAENS asked **Mr. Pilcher** if the streams were already over-classified, what is being done by the DHES for mitigation. **Mr. Pilcher** replied that they were working with the responsible parties to address known problems of historic degradation. The problem in the upper Black Foot River occurred over many years and was not just a single incident of the Mikehorse Mine. There are many streams where there is not a plan in place for clean-up. The upper Black River is a voluntary program undertaken by Asarco and the Anaconda Company. They are providing the funds for corrective actions, as well as for

department sponsored over-sight to ensure that activities are appropriate.

SEN. CHRISTIAENS asked if the department thought that SB 346 would down-grade Montana streams. **Mr. Pilcher** said the bill in no way down-grades water quality. The bill recognizes that some of those streams do not and have not met the standards that were established for their classification. The bill does not impair their ability to work toward the goal outlined in the Federal Clean Water Act.

SEN. TOM KEATING asked **Mr. Pilcher** if he would give him an example of what he meant by bringing the water up to standards. What is Asarco doing to help improve the quality of the water? **Mr. Pilcher** responded that the water does not meet the standards. The companies have developed and submitted to the department for approval a phased approach to restore the quality of water in the upper Black Foot River. A lagoon has been put in to provide treatment to improve the quality of water coming out of the adit. The next phase would be to take that discharge and apply it to a wetlands area to facilitate even further implementation of the clean-up. They can only do so much so fast for the clean-up.

SEN. KEATING asked if that was kind of a sedimentation and filter process. **Mr. Pilcher** answered that is correct, and the treatment is also being enhanced to try to reduce the heavy metals concentration. **SEN. KEATING** asked if the water quality there was affected by agriculture and timber run-off. **Mr. Pilcher** said there could be other industries contributing to the degradation, but the mining in the area far over-shadows other activities.

SEN. MACK COLE asked if there were a number of other rivers that would fall into that same category. **Abe Horpestad, Water Quality Division**, said they would prepare a list of the other rivers and streams for the committee. He said there were approximately 25 streams he was familiar with.

CHAIRMAN LORENTS GROSFIELD asked if on Page 2, Line 9 that says: "If rules are adopted regarding temporary standards,..." implies that they may not be adopted? **Mr. Pilcher** said it was their intent to adopt rules to implement the provisions in SB 346.

CHAIR. GROSFIELD said on Page 5, Lines 4 and 7 the bill says: "according to the plan's schedule or modifications to that schedule made by the board or department." He didn't see anywhere in the bill the provisions for the board or the department to make modifications. He asked how modifications would be made. **Mr. Pilcher** said the decisions and temporary standards would be made by the board. If there was a need to modify the schedule, the proposed application would have to be submitted to the board.

CHAIR. GROSFIELD asked **Claudia Massman, Attorney, Water Quality Division,** if it should be spelled-out in the bill how it would

work because the bill doesn't address modification. **Ms. Massman** said that probably should be spelled-out. They thought that during the 3 year review the department would review the plan and see if it needed to be revised.

CHAIR. GROSFIELD said supposing someone applies for a temporary water quality standard and after 5 years something happens and they take off. Maybe it would be 15 years before someone else would tackle it. Would they be able to start with 6 years or is it the intention that the 20 years have gone by and there is no further opportunity to fix that stream? **Mr. Pilcher** said they have not addressed that specific scenario, but he thought that if someone came in and wished to continue that plan they would be given an opportunity to do so. The elimination of temporary standards would not prohibit the department from seeking through its enforcement authority under the Water Quality Act, further implementation of the plan and further corrective measures by an identified responsible party. Just because they decided they didn't want to play ball anymore doesn't mean they would be relieved of their responsibility.

Closing by Sponsor:

SEN. FORRESTER said over the years he has seen all the damage that has been done to the streams. For the last 30-40 years there has never been anything done about that. The bill is an honest attempt to do something to correct those problems. For the first time, even some people of the environmental community are supporting something that would clean up water. That was the first time that a bill reflected the reality of the situation at hand. He said the bill would give them a chance that Cooke City and the Boulder area streams would be cleaned-up. The DHES did an excellent job in drafting the bill. It won't satisfy everyone, but it will benefit the people of Montana. He agreed that there was a need for some technical amendments regarding rule-making. The bill had been carefully drafted and the people of Montana will be able to see that the Legislature is really working on the problem.

HEARING ON SB 330

Opening Statement by Sponsor:

SEN. CHUCK SWYSGOOD, District No. 17, Dillon, said SB 330 revised the water quality nondegradation provisions of the Montana water quality laws, and corrects some of the problems with the nondegradation process. The current process is difficult for the DHES to manage. The definition of high quality waters needs to be narrowed down so that only the actual high quality waters would be subject to the nondegradation process. Montana has a number of streams that have low quality water, particularly those in eastern Montana. A large number of intermittent streams that only run when it storms or rains are currently classified as high quality water and they shouldn't be.

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2-13-95
BILL NO. SB-346

SENATE BILL 346

TESTIMONY
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Steven L. Pilcher, Administrator
Water Quality Division

The Department of Health and Environmental Sciences has requested consideration of SB 346 in an attempt to deal with a problem that we currently face in administering the Montana Water Quality Act.

The Water Quality Act requires the Board of Health and Environmental Sciences to classify all waters of the State according to present and future beneficial uses. When Montana streams were classified in the mid 1960s, available water quality data was quite limited. Localized water quality problems such as those created by past mining activities were not recognized. We are now finding a number of stream segments that do not meet the assigned classification and do not support the designated beneficial uses.

A good example of this would be the Upper Blackfoot River near Lincoln where historic mining activities in the area of the Mikehorse, Anaconda, and Paymaster Mines have seriously impacted the quality of the Blackfoot River. That upper segment is not of the same quality as the lower river but has been given the same classification.

Senate Bill 346 represents a realistic way to address these water quality problems. Currently, the Board can reclassify and lower the classification of stream segments upon the finding that the current classification is higher than actual water quality that existed at the time of classification. Senate Bill 346 would allow the Board to change the standard but instead of writing off a stream with poor water quality it would establish a temporary standard for a stream segment. Such temporary classification would require the development of an implementation plan that ensures that higher water quality standards are met as soon as reasonably practical. In no case shall the temporary standard extend more than twenty years.

The Department, through its permitting responsibilities, would ensure the conditions and limitations designed to achieve compliance with the plan are enforced.

This bill, in no way allows anyone to degrade State waters. It is limited to those stream segments that suffer from past activities and provides a mechanism to restore those waters to better quality. We hope you will give favorable consideration to this request.

THANK YOU!

...E NATURAL RESOU...
EXHIBIT NO. 2
DATE 2-13-95
BILL NO. SB-346

SB 346, TEMPORARY WATER QUALITY STANDARDS
FEBRUARY 13, 1995, HEARING BEFORE (S) NAT.RES. COMM.
COMMENTS OF SIERRA CLUB, MONTANA CHAPTER

The goal behind SB 346 is a worthy one: to improve water quality limited segments of Montana surface and ground waters. A water quality limited segment of water is one in which all water quality standards are not currently being attained. The purpose of the bill is to establish temporary water quality standards that are more stringent on a parameter-by-parameter basis than existing water quality standards for a particular water body whose designated beneficial uses are not being met. Through implementation of these temporary standards in pollutant discharge permits, the State's goal to achieve all beneficial designated uses (e.g., swimming, fishing, drinking water, etc.) should be realized. See Bill, Section 3(1) at 3 lines 23 through 28.*

Under the bill, the Board may on its own, or upon recommendation of DHES, or upon a petition for rulemaking by any person, including a permit applicant or permittee, temporarily modify a water quality standard on a parameter-by-parameter basis in those instances in which substantive information indicates that a water body or segment thereof is not supporting its designated uses. See id. Within this mechanism lies the flaw of this bill.

To begin, the federal Clean Water Act requires Montana **proactively** to identify all water quality limited segments of water bodies due to both point source and non-point source pollution. 33 U.S.C. § 1313(d) and 40 C.F.R. § 130.1 et seq. After performing this analysis, the State must determine a "total maximum daily load" ("TMDL") of pollutants that may be discharged from point sources into such segments in order to allow all designated uses to be achieved. All permits thereafter issued must reflect the restricted amount of pollutants allowed to be discharged in order to attain designated uses. If the TMDL for a pollutant (i.e., a parameter) is less than the amount of the pollutant currently being discharged from point sources (which necessarily will be the case), current permittees must reduce the amounts of the pollutant discharged and no new point sources of that pollutant may be permitted. In this manner, the goal of the Clean Water Act to restore and maintain the chemical, physical

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* There may be cases in which nonpoint sources of pollution, for instance from agricultural runoff, may be the most significant sources of pollution in a stream segment. In these situations, it may not be possible to achieve all water quality standards exclusively through more stringent controls on point source pollution. Section 319 of the Clean Water Act provides federal dollars to Montana to design and implement nonpoint source pollution programs to alleviate this kind of problem.

SENATE NATURAL RESOURCES
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and biological integrity of Montana's waters is achieved. See 33 U.S.C. § 1251.

Under SB 346, the State's response to water quality limited stream segments would be **reactive**, and also would be entirely discretionary with the Board. Even in the situation where a person petitioned for temporary standards, the Board would be within the bounds of its authority to deny the petition, as long as its decision to do so was reasonable. In this manner the bill is in clear conflict with federal law.

In addition, the federal Act does not allow the State to place the burden on the public to identify water quality limited segments or to propose the rules that would restrict pollutant discharges to allow all designated uses to be achieved. Under SB 346, the State acting through the Board or DHES, may propose temporary water quality standards to improve polluted stream segments, but the State does not necessarily have to do so. This provision is flatly inconsistent with the Clean Water Act.

Further, any other person wishing to have temporary standards promulgated must submit a petition for rulemaking supporting the request. A petition for rulemaking requires the petitioner to submit a detailed statement of reasons supporting the need for a new rule and to provide the proposed rules that the petitioner desires to have promulgated. Speaking as one who has prepared petitions for rulemaking, this is a heavy burden indeed. While it may be entirely appropriate and desirable for existing and potential permittees to be required to assist, or even fund, the State in its duty to promulgate TMDL's (or, under this bill, temporary standards), it is completely unreasonable to expect a citizen petitioner to conduct the water quality analyses and put forward the highly technical information necessary to support the basis of a TMDL. More importantly, however, the bill's purported attempt to shift this burden from the State to the public is contrary to explicit federal requirements set forth in the Clean Water Act.

Enacting a bill whose ostensible purpose is to fulfill federal requirements, but whose provisions directly contravene federal law would be bad policy for Montana. The bill, if it becomes State law, will be subject to U.S.E.P.A. review. Most assuredly, the EPA would veto the State's attempt to circumvent the requisite TMDL process. But even if EPA did not do so, citizens may legally challenge the EPA's failure to carry out its mandatory duty to ensure that the State's water quality laws fulfill the letter and spirit of the federal Clean Water Act. The upshot would be that the State may lose primacy to carry out Clean Water Act programs.

A good alternative to this bill would be legislation requiring permittees and permit applicants to fund the State's

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DATE 2-13-95
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TMDL analyses. Such analyses, however, may not be confined only to water quality limited segments of water bodies where point source discharges exist or are proposed. Under the Clean Water Act, the State must analyze all water quality limited segments and come up with a plan to achieve all designated uses in those segments through permit discharge requirements. The logical starting point is dirty stream segments where existing point source dischargers are located, or alternatively where an applicant wishes to begin a new discharge (e.g., Daisy and Fisher Creeks at the New World mine site). In this way, the segments with existing or potential dischargers are analyzed and cleaned up first.

We request the Committee to table this bill as written, or to amend it to direct compliance with the TMDL provisions of the Clean Water Act.

DATED: February 15, 1995

Deborah S. Smith

Deborah S. Smith

FOR SIERRA CLUB, MONTANA CHAPTER

MRAN

MONTANA • RIVER • ACTION • NETWORK

SENATE NATURAL RESOURCES
EXHIBIT NO. 3
DATE 2-13-95
BILL NO SB-346

February 13, 1995

Senators Swysgood, Beck, Tweit, Forrester and Grosfield
Montana State Legislature
Helena, Montana 59601

SB:, 330, 371, 331, 362 and 346

The Montana River Action Network, its members and supporters, statewide, oppose the passage of these bills and wish to express our views through this letter.

These bills attempt to lower water quality standards and threaten water quality throughout Montana. The water resources of this great state belong to all the people and we believe the people of Montana deserve the highest quality water available. In the spirit and intent of the Federal Clean Water Act, we should be improving water quality, not degrading it in any way.

These bills are a threat to not only wildlife and fisheries, but pose an imminent and future threat to public health and welfare.

MRAN would ask the legislators in the Senate and House to vote no on each of these bills and vote for clean water for our children and their children to come.

Sincerely,

Kenneth J. Knapp
Executive Director

P.O. BOX 383 • HELENA, MONTANA • 59624
406 442 2398 • FAX: 406 449 8946

...E NATURAL RESOURCES
EXHIBIT NO. 6
DATE 2-13-95
BILL NO. SB-346

From the desk of

Kenneth J. Knapp

N.S.F.R.E
National Society of Fund Raising Executives

Board of Directors
Member, 1982-85

February 12, 1995

Senators Swysgood, Beck, Grosfield and Forrester
Montana State Legislature
1995 Session
Helena, Montana 59601

Gentleman,

I am writing this letter as a personal statement concerning the pending bills on Montana Water Quality to be heard in hearings tomorrow, February 13.

I am the Executive Director of the Montana River Action Network, a statewide river advocacy organization headquartered here in Helena. We represent constituents and members from all areas within Montana and a few from other western states. Our organization and its members are totally opposed to these bills that would reduce the water quality standards of this great state.

I would now like to state something more personal. I am a wildlife biologist. I attended Michigan State University and conducted wildlife research at the University of Oregon. I am a conservative Republican and former rancher from eastern Wyoming. I served on George Bushe's National Campaign Committee and helped get John Turner of Wyoming elected to the Wyoming Senate two times where he served with distinction before being appointed Director of the U.S. Fish & Wildlife Service in Washington D.C.

I could cite a multitude of scientific arguments against provisions and stipulations within these bills, but I think I will leave that to my noted conservationist colleagues who have lived here far longer I have.

Rather I would tell you all that for almost twenty five years I have written for outdoor publications like Field & Stream, Outdoor Life, Petersen's Hunting, Sports Afield and 22 other similar publications. I have written about hunting, fishing, wildlife, great waters and wild places we like to call wilderness. I have authored books, written television documentaries for C.B.S. News on Grizzly Bears and hundreds of articles about places called Bob Marshall, Selway, Bitterroot, Scapegoat and the Gallatins. This land is like no other, abundant with wildlife, open places and clean water.

P.O. Box 383 Helena, Montana 59624 (406) 458-5706

EXHIBIT NO. 6
DATE 2-13-95
BILL NO. SB-346

Today, I am appalled and frightened by the proposed legislation that I have read in these four bills. Scientists, environmentalists, ranchers and natural resource managers, both State and Federal, have worked hard for the past fifty years to get our water quality laws where they are today. These bills, if passed and signed into law by Governor Rosciot would take us backward more than fifty years because the impacts on the water resources are greater today than they were then.

We cannot be short sighted in formulating water law. In the West, aquifers are going dry. New Mexico will soon be out of ground water. Some rivers that were once clear and abundant with wild fish are unusable by wildlife and humans because of salts, toxic waste, heavy metals and chronic de-watering.

If sell our water and quality to industry and special interests for the short term financial gain, then we have sold out our children and grandchildren who deserve to be left responsible choices that will come with future technologies and tomorrow's sciences.

This issue is not just about elk, deer, rainbow and cutthroat trout -- it is about human health. It is about the people of Montana and their right to have a drink of clean water, take their kids swimming and irrigate the land without fear of pollution.

A minister once gave an invocation at the national convention of the Outdoor Writers Association of America. It went something like this:

Lord, thank you for the quaking Aspen, the rising trout and bugling bull elk, the snow capped peaks and lush mountain meadows..

But Lord, if I should ever think these things are mine, remind me Lord, that these are but your wondrous creations and I am but a steward of these gifts.

We must all be good stewards of the lands, wildlife & waters. I implore you to not pass these bills and strengthen the laws of Montana to provide the protection the land and waters so desperately need.

Sincerely,

Kenneth J. Knapp
Outdoor Writer

DATE 2-13-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 330, SB 331, SB 362, SB 371, SB 346

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Deborah Smith	Sierra Club	all, ~~equi.~~ filed 371		346, 330, 331, 362
Richard Parks	NPRC	All		
Allan Rollo	MWF	All	(371)	✓
Jim Barrett	Beaverhead Alliance			✓
DONALD KEEN	SELF	ALL		X
Joe Gutkoski Pres.	Madison Gallatin Alliance	All		✓
MIKE MURPHY	MT. WATER RES. ASSN	330 331 362 371	✓	
Scott McMillion	Bozeman Chronicle	all		
Lorna Frank	MT. Farm Bureau	all	✓	
Paul Hawks	SELF	ALL		
CANDACE TORGERSON	MT. Cattlewomen	ALL	X	
Raymond Lazuk	Golden Sunlight Mine	All	X	
Thomas Lee	NPRC	346	X	
Alan Joscelyn	Golden Sunlight Mines	330 331	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER F10

DATE 2/13

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: 330 - 331 362
346

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Doug Parker	Crown Butte Mines	330+331	X	
Bob Wallace	Mt Mine Assn	330-331	✓	
Hope Stevens	Citizen	330-331	✓	X
Laurie Gano	Citizen	346 330-331	✓	✓
Clarence Orr	NPRC	330, 331		X
Steve Pilcher	DHES	330 - 331		X
ROBIN CUNNINGHAM	FISHING OUTFITTERS ASSN - OF MONTANA	330-331		X
GAIL ABERCROMBIG	MT Petroleum Assn	331 362	X	
Larry Brown	Ag Pres. Asso 371	331 346 330 362	X	
DENNIS IVERSON	NMOGA	362	✓	
Don Allen	MT Wood Products Assn	330 331	✓	
Peggy Trenk	WETA	371	✓	
Russ Ritter	MT Resources	331 362	✓	
John Bloomquist	Mt. Stockgrowers	330, 331, 362, 371	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-13-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 330, SB 331, SB-362
SB 346

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Nick Golder	NPRC	SB 330 SB 331		✓
GARY FORRESTER	SD #8	346	✓	
COLLIN BANGS	REALTORS	331		
Jim MOCKLER	MT. Coal Council	331 330	✓	
Tamara J. Johnson	CURE	SB 330 SB 331	✓ —	
Al Kingston	Self	SB 330 331	✓	
Joe Cross	SELF	SB 330 331	✓	
Bruce Farling	Montana Trout Unlimited	SB 330 SB 331		✓
Willa Hall	LWV	SB 330 SB 331		✓
R F LABBE	City of DEER Lodge	SB 331	✓	
[illegible]	[illegible]	SB 330 SB 331	—	
WANDY WASH	ARCO	SB 330 SB 331	✓	
[illegible]	[illegible]	SB 330 SB 331	✓	
Susan Cullaghan	Montana Power	SB 330 SB 331	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2/13/95

SENATE COMMITTEE ON Nat. Resources

BILLS BEING HEARD TODAY: 330, 331, 362, 331
SB 346

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
MARSHALL PRICE	ENTERPRISE RENT-A-CAR			
Robert Ward	Enterprise Rent-a-Car			
JACK MORGENSTERN	MT CONTR ASSOC			
CURT LANCE	HELENA CHRYSLER-NISSAN			
MARY DYE	MDT			
Ken Knapp	MRAN			
Dick Juntunen	Santa Fe Pacific Gold.		346, 330 331, 362 371	
Hope Stevens				
Ron A Andersen				
JOHN A. KRUTAR				X
Brian Kuehl	Greater Yellowstone Coal.			X
[illegible]	MEIC 371	330, 331 362, 346		X
[illegible]	SELF			X
Andrea Stander	NPRC			X

VISITOR REGISTER

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REGISTER FILE

DATE 2-13-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320, SB 331, SB-362
SB-346

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Youngberg	MT Farm Bureau	362 372	X	
Janet Ellis	MT Audubon	362 346		X
Brian Kuehl	Greater Yellowstone Coal.			X
JOHN ARRIGO	DHES	SB362	X	
John Fitzpatrick	Pegasus Gold	SB362 SB331 ~~SB330~~ SB 331	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-13-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB-330, SB 331, SB 362
SB 346

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Russ Ritter	MT Resources	330 331	X	
John Youngberg	Montana Farm Bureau	330 331	X	
Chris Tweeten	MT Dept of Justice	331		X
Melissa Tuemmler, R.S.	Broadwater County Jefferson County	330 331	X	
Larry Brown	Ag. Pres. Assoc.	330 346 331	X	
Bob Robinson	DNRC	330 + 331		X
Janet Ellis	MT Audubon	330 > 331		X
Peggy Trenk	WETA	330 + 331	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

was bulky in its mechanism. She didn't see how Legislature approval would work without having annual sessions. Other than that, the bill had some very good qualities.

Vote: MOTION TO APPROVE SB 371 AS AMENDED, CARRIED 9-2 WITH SEN. TVEIT AND SEN. CHRISTIAENS VOTING NO.

EXECUTIVE ACTION ON SB 415

Discussion: Before the committee adjourned to the floor, **CHAIR. GROSFIELD** instructed **Mr. Everts** to redraft SB 415 to meet the concerns of the committee.

SEN. KEATING suggested that there be language in the bill giving the department some sort of control of the project and language to allow inkind contributions.

SEN. MILLER said there should be co-participation, in which 50% of a pledge could be inkind services.

SEN. CHRISTIAENS said they may wish to look at how Fish, Wildlife, and Parks handle their donations.

CHAIR. GROSFIELD mentioned to **Mr. Everts** that he didn't want all of the donations spent on studies.

(Comments: meeting recessed at 9:00 AM and reconvened at 1:45 PM.)

EXECUTIVE ACTION ON SB 346

Motion: CHAIR. GROSFIELD MOVED TO ADOPT SEN. FOSTER'S AMENDMENTS NO. sb034601.ate AS CONTAINED IN EXHIBIT 7.

Discussion:

CHAIR. GROSFIELD reviewed the amendments with the committee members. He said the amendments would provide some clarification to the bill. There were no significant changes with the amendments. In reviewing the amendments with the DHES, they were agreeable to the changes.

Vote: CHAIR. GROSFIELD announced that the vote would be left open until more committee members were present.

Motion: SEN. CHRISTIAENS MOVED TO ADOPT SEN. BROOKE'S AMENDMENTS NO. sb034602.ate AS CONTAINED IN EXHIBIT 8.

Discussion:

SEN. CHRISTIAENS reviewed the amendments with the committee members.

CHAIR. GROSFIELD said item 3. of **SEN. BROOKE'S** amendment should read "Page 3" instead of "Page 2."

SEN. FOSTER asked what "widespread economic and social impact" meant. **Mr. Everts** said he just received the amendment and he wasn't sure what **SEN. BROOKE'S** intentions were.

CHAIR. GROSFIELD asked **Brian Kuehl,** who he believed had helped with **SEN. BROOKE'S** amendments, to respond.

Brian Kuehl, Greater Yellowstone Coalition, explained that under the Federal Clean Water Act, water quality standards can be lowered, but only in 6 specified circumstances that were listed in the Code of Federal Regulations. If a state attempts to lower water quality standards other than in those 6 circumstances, the EPA would be forced to veto that lowering of standards. If the state adopts a rule that violates that provision, the EPA may also try to undo that rule. The language in the amendment is verbatim from the Code of Federal Regulations for the two human-caused types of pollution. Water standards can be lowered only for natural causes.

SEN. CHRISTIAENS asked if the amendments were not adopted, would they end up with a primacy issue. **Mr. Kuehl** said he furnished **SEN. BROOKE** with a copy of the Codes of Federal Regulation provisions, and a letter from the EPA Office of General Counsel stating that the 6 criteria had to be incorporated whenever water quality standards were lowered.

CHAIR. GROSFIELD asked **Mr. Pilcher** to address the situation. **Mr. Pilcher** pointed out that they were not lowering the classifications. The bill deals with those stream segments where the water quality is already limited. EPA does allow variances in water quality standards. He said that the temporary approach that was suggested was workable and would not lower water quality standards. The language in the amendment doesn't significantly change how the bill would be implemented.

CHAIR. GROSFIELD asked **Dr. Horpestad** if he had talked with the EPA about the bill as introduced. **Dr. Horpestad, Technical Studies and Support Section Supervisor, Water Quality Division, DHES,** replied he had discussed the bill as written with EPA, and sees no major problems. Adding the language proposed in the amendment may be acceptable, but he would feel more comfortable if the language was not added.

Vote: MOTION TO APPROVE SEN. BROOKE'S AMENDMENTS CONTAINED IN EXHIBIT 8, FAILED.

Vote: MOTION TO APPROVE SEN. FOSTER'S AMENDMENTS AS CONTAINED IN EXHIBIT 7, PASSED.

developed still didn't satisfy the industries that want to exploit Montana waters for the purpose of making money. That is why SB 330 and SB 331 were composed. The citizens of Montana won't profit from the bills, but industries will.

REP. HARPER agreed with **REP. RANEY** and said SB 330 and SB 331 aren't DHES bills, they are industry bills. In fact, the person who explained the amendments, represents industry. SB 331 will seriously weaken Montana's water quality in the near future and that impact will worsen as time goes on.

Vote: Roll call vote was taken. **Motion carried 12 to 6. REP. RANEY, REP. ELLINGSON, REP. EWER, REP. HARPER, REP. SWANSON and REP. TUSS voted no.**

EXECUTIVE ACTION ON SB 346

Motion: **REP. JAY STOVALL MOVED SB 346 BE CONCURRED IN.**

Motion/Vote : **REP. HAL HARPER MOVED AMENDMENTS TO SB 346. EXHIBIT 3** Voice vote was taken. **Motion carried unanimously.**

Motion: **REP. STOVALL MOVED SB 346 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. BOB RANEY asked **Abe Horpestad, DHES,** if a permit was really needed to make a stream better. **Mr. Horpestad** said currently, when a permit is issued, water quality standards have to be met. In many cases that can't be done. SB 346 enables the department to write a temporary permit that can be complied with while the water is being cleaned up. **REP. RANEY** said as far as he was concerned, a permit that is issued for 20 years is not a temporary permit. **Mr. Horpestad** reminded **REP. RANEY** that the permit would be effective up to 20 years. There will also be a review every three years and if necessary, a public hearing will be held.

REP. BILL TASH said SB 346 is a solution bill that gives industry the opportunity to work within a reasonable, temporary permit allowance, to get the streams cleaned up.

REP. ROBERT STORY said SB 346 is the department's recognition of reality.

REP. HAL HARPER said he would put his faith in the department and support the bill.

Vote: Voice vote was taken. **Motion carried unanimously.**

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 346

Call to Order: By **CHAIRMAN TOM BECK**, on April 7, 1995, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck (R)
Sen. Gary Forrester (D)
Sen. Lorents Grosfield (R)
Rep. Dick Knox (R)
Rep. Karl Ohs (R)
Rep. Debbie Shea (D)

Members Excused: none

Members Absent: none

Staff Present: Todd Everts, Environmental Quality Council
Elaine Johnston, Secretary

This conference committee was dissolved and a free conference committee of the same members was appointed. However, the free conference committee never met but the amendments they adopted were discussed in this meeting and the free conference committee report is in these minutes.

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

Discussion:

Abe Horpestad, Department of Health and Environmental Sciences, gave some background on SB 346. He said that the basis for the bill was that there are a lot of waters in Montana which are wrongly classified. The classification was done years ago and it was a once over lightly type classification. Consequently, they had situations where the water quality was worse than the standards and because of the way the laws are written, if someone wanted to discharge those waters, they would have to discharge quality in accordance with the standards not with what is in the stream. In many cases, it was very difficult for them to comply with the standards and it did not make sense from a practical standpoint. If you had a river with a Ph of 3, it was a strong acid and they are telling someone in order to discharge they have to achieve a Ph of 7.5. They had the problem that people who want to start new operations, they do not want to get started

because they would not be able to achieve the discharge standards. SB 346 set up a process by which a temporary standard could be set provided that a fair amount of information was received by the applicant including a plan and schedule to remedy the water quality. SB 346 did that, but the amendment on page 4, a new section was added that said, "during the period of the temporary modification, the board may not allow a discharge that will cause water quality to become worse than the quality of the water body for sake of planning a discharge". He said that requirement was too stringent and there would be cases where they would like to trade a little bit of increase in sulfate or carbonate which would result from treatment and get rid of a whole bunch of metals. What the bill should have said was, "the overall water quality" rather than "the water quality". A couple of other items could be changed in a free conference committee.

CHAIRMAN TOM BECK told the committee that the amendment was to insert on page 4 line 24 after "CAUSE" "overall" and following "THAN THE" "overall". He said the reason was because the standard was way to tight and needed to be expanded. He asked the members if they agreed.

Motion/Vote: SEN. LORENTS GROSFIELD MOVED TO ADOPT THE AMENDMENT. THE MOTION CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN BECK said that there were some other concerns that would require a free conference committee.

SEN. GARY FORRESTER referred to **Mr. Horpestad.**

Mr. Horpestad said that the first change was on page 3 line 19 through 21. He said that the board had adopted a temporary classification which had a great similarity to what was in SB 346. In the temporary classification, someone must demonstrate that it was originally misclassified. He proposed that the section be changed by striking "under [section 3]" and inserting "or classification". He said they were not concerned if it had been originally misclassified or not.

SEN. FORRESTER said there was another amendment needed.

Mr. Horpestad, said that on page 4 lines 20 through 22 it said that the temporary standard could not extend beyond 20 years from the time of the original designation as a temporary standard. There could be cases where someone worked for 10 years and got the water partially cleaned up and go away. Ten years may pass and someone else may want to take on the clean up but would not be able to because the 20 year total had elapsed. He said that should be changed by putting a period after the "20 years" on line 21. That allowed the total clean up time to be 20 years and not consecutive years.

SEN. GROSFIELD said that same concept appeared in some other places in the bill and when it went through the process in Senate Natural Resources; they cleaned it up but forgot that one place. He pointed out on page 5 where they had changed the language and in order to work it had to be changed in all three places.

REP. CARL OHS asked **SEN. GROSFIELD** if what he said was that he felt it was an oversight?

SEN. GROSFIELD said that was correct but it would need a free conference committee to be fixed.

CHAIRMAN BECK asked if they were in agreement to ask for a free conference committee?

Motion/Vote : **SEN. FORRESTER MOVED TO ASK FOR A FREE CONFERENCE COMMITTEE. THE MOTION CARRIED UNANIMOUSLY.**

ADJOURNMENT

Adjournment: 10:10 a.m.

Sen Tom Beck
SEN. TOM BECK, Chairman

Elaine Johnston
ELAINE JOHNSTON, Secretary

TB/ej

HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Mr. Speaker: We, the committee on **Natural Resources** report that **Senate Bill 346** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Dick Knox, Chair

And, that such amendments read: **Carried by: Rep. Knox**

1. Page 4, line 20.
Following: "(5)"
Insert: "(a)"

2. Page 4.
Following: line 22
Insert: "(b) During the period of the temporary modification, the board may not allow a discharge that will cause water quality to become worse than the quality of the water body or segment prior to the discharge."

-END-

Committee Vote:
Yes 18, No 0.

661018SC.Hdh

EXHIBIT 7
DATE 3-21-95
SB 346

Amendments to Senate Bill No. 346
Third Reading Copy

Requested by Rep. Harper
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 21, 1995

1. Page 4, line 20.
Following: "(5)"
Insert: "(a)"

2. Page 4.
Following: line 22
Insert: "(b) During the period of the temporary modification, the board may not allow a discharge that will cause water quality to become worse than the quality of the water body or segment prior to the discharge."

Free Conference Committee
on SB 346
Report No.1, April 10, 1995

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 346, met and considered:

House Committee on Natural Resources amendments to the third reading copy dated March 22, 1995.

We recommend that SB 346 (reference copy - salmon) be amended as follows:

1. Page 3, line 19.
Strike: "under [section 3]"
Insert: "or classification"

2. Page 4, lines 21 and 22.
Strike: "OF" on line 21
Insert: "longer than"
Strike: "from" on line 21 through "standard" on line 22.

3. Page 4, line 24.
Following: "CAUSE"
Insert: "overall"
Following: "THAN THE"
Insert: "overall"

And that this Free Conference Committee report be adopted.

For the Senate:

Beck
Chair

Grosfield

Forrester

Amd. Coord.

Sec. of Senate

For the House:

Knox
Chair

Ohs

Shea

ADOPT

REJECT

821114CC.SRF

Motion/Vote: SEN. WELDON MOVED TO DO PASS SB 346 AS AMENDED. MOTION CARRIED 6-1, WITH SEN. CHRISTIAENS VOTING NO.

EXECUTIVE ACTION ON SB 252

Motion: SEN. TVEIT MOVED TO ADOPT AMENDMENTS NO. sb025201.ate AS CONTAINED IN EXHIBIT 9.

Mr. Everts explained the amendments to the committee members.

Discussion: SEN. WELDON said he had a question with the amendments as they relate to the title of the bill. In the amendments there was no mention of natural attenuation zones.

Mr. Everts said that was correct. However, one could make the argument that it was reasonably germane to the original title.

SEN. WELDON said he takes issue with the method that was taken to amend the bill.

Motion: SEN. WELDON MOVED TO TABLE SB 252.

Discussion: SEN. TVEIT said the title does conform to the bill.

Vote: MOTION TO TABLE SB 252 FAILED 6-1 BY ROLL CALL VOTE.

Mr. Everts explained amendments no. sb025201.ate in the new grey bill.

Vote: MOTION TO ADOPT AMENDMENTS NO. SB025201.ate AS CONTAINED IN EXHIBIT 9, CARRIED 6-1, WITH SEN. WELDON VOTING NO.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENTS NO. sb025202.ate AS CONTAINED IN EXHIBIT 10.

CHAIR. GROSFIELD explained the amendments to the committee members. He said the amendment no. sb025202.ate amends amendment no. sb025201.ate. The new language to be inserted after discharger was "...at the time the permit was issued..."

SEN. WELDON said then in effect the land area at the time the permit was issued would be the maximum pollution zone. If a company acquires land beyond that, the mixing zone does not expand with the land acquisition, is that correct? **CHAIR. GROSFIELD** replied that was correct.

Vote: MOTION TO ADOPT AMENDMENTS AS CONTAINED IN EXHIBIT 10, CARRIED UNANIMOUSLY.

Motion: SEN. TVEIT MOVED TO DO PASS SB 252 AS AMENDED.

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Natural Resources having had under consideration SB 346 (first reading copy -- white), respectfully report that SB 346 be amended as follows and as so amended do pass.

Signed: _____
Senator Lorents Grosfield, Chair

That such amendments read:

1. Page 2, line 9.
Strike: "If"
Insert: "When"

2. Page 3, line 28.
Following: "which"
Strike: "all designated"
Insert: "an additional"
Following: "beneficial"
Insert: "use or"

3. Page 4, line 9.
Following: "(b)"
Insert: "the"
Following: "beneficial" in two places
Insert: "use or" in two places

4. Page 4, line 13.
Following: "standards"
Insert: "for the parameter or parameters at issue"

5. Page 4, line 17.
Following: "that"
Insert: "reasonable"
Following: "the"
Insert: "implementation"

6. Page 4, line 20.
Following: "a"
Insert: "total"
Strike: "longer than"
Insert: "of"

7. Page 4, line 27.
Following: "review"
Insert: "that the applicant is not complying with the approved

implementation plan"

8. Page 4, line 28.
Following: "standard"
Insert: "for a parameter"

9. Page 5.
Following: line 4
Insert: "(9) The board may modify the plan if the permittee submits convincing evidence to the board that the plan needs modification. The board may not extend the plan beyond a total period of 20 years."
Renumber: the subsequent subsection

10. Page 5, lines 10 and 11.
Strike: "extend beyond" on line 10
Insert: "be in effect for a total period longer than"
Strike: "from" on line 10 through "standard" on line 11
Strike: "and" on line 11
Insert: "in the"

-END-

HEARING ON SB 346

Opening Statement by Sponsor:

SEN. GARY FORRESTER, Senate District 8, Billings, said SB 346 was requested by the Department of Health and Environmental Sciences (DHES). There has been 20 years of conflict in Montana because of the inability to clean up mine wastes or clean up the waters that are polluted. SB 346 addresses those problems.

Proponents' Testimony:

Steve Pilcher, DHES, said the department has requested consideration of SB 346 in an attempt to deal with the problem it currently faces in administering the Montana Water Quality Act. The Water Quality Act requires the Board of Health and Environmental Sciences (BHES) to classify all waters in Montana according to present and future beneficial uses and then to establish quality levels that must be maintained. When Montana's streams were classified in the mid-1960s the available water quality information was limited so assumptions and generalizations had to be made. Localized water quality problems such as those created by past mining activities were not recognized and identified. The department is now finding a number of stream segments that do not meet the assigned classification, probably never did and hopefully will sometime in the future. The best local example would be the Upper Blackfoot River near Lincoln where historic mining activities in the area of Mike Horse, Anaconda and Paymaster mines have seriously affected the quality of the Blackfoot River. When the BHES conducted its classification hearings, the upper segment of the river was given the same classification as the lower river which has good water quality. SB 346 represents a realistic way to address these water quality problems. Currently, the board can reclassify streams that are shown to have been misclassified, but that just means they are put in another category but no action will be taken. SB 346 would allow the board to recognize that the streams may have been misclassified, but more importantly, it would put the board on a schedule for overall improvements. The bill requires the restoration of a stream segment so it will support the beneficial uses in a time period not to exceed 20 years. The department, through its permitting responsibilities and authorities, would ensure that conditions and limitations are imposed on activities and on any discharges into the stream segment to ensure that it achieves the desired improvements in water quality conditions. The bill does not allow people to further degrade state waters, it merely recognizes that those waters were impaired in the past and puts the department on a plan to restore them to beneficial uses.

Gary Langley, Executive Director, Montana Mining Association, urged the committee to support SB 346.

Larry Brown, Agricultural Preservation Association, supported the SB 346 for the same reasons **Mr. Pilcher** stated.

John Davis, Atlantic Richfield Company, supported SB 346.

Gail Abercrombie, Montana Petroleum Association, supported SB 346.

Opponents' Testimony:

Jim Barrett, Beartooth Alliance, Cooke City, said SB 346 is an attempt by DHES to accommodate mining interests who are faced with acquiring permits to discharge pollutants into streams that are presently impaired in one or more of the parameters which determine their classification. Written testimony. **EXHIBIT 1**

Jim Jensen, Executive Director, Montana Environmental Information Center, opposed SB 346.

Florence Ore, Northern Plains Resource Council. Written testimony. **EXHIBIT 2**

Brian Kuehl, Greater Yellowstone Coalition, said the coalition supported the intent of the bill however, they felt that a mechanism exists under existing law and is not adequately being used. The mechanism is the permitting system established for discharge permits. The coalition and a number of other conservation groups have filed suit against Crown Butte Mining Company requesting it to get a permit to clean up historic conditions at the mine. Rather than requiring that permit, the Water Quality Division has been procrastinating and no permit has been issued. The last thing that is needed is more rulemaking that will take another year. Permits should be issued and treatment should be required.

Tape 1, Side 2

Debbie Smith, Sierra Club, supported the intent of SB 346 but it is inconsistent with the Clean Water Act. Under the Clean Water Act, before the state can change any water quality standard, it has to go through a use attainability analysis which requires examination of certain factors that are stated in the Environmental Protection Agency's (EPA) regulations and it also requires public input. After that has been accomplished, the state can reclassify the water quality standards. The bill allows a party to get a petition and require temporary standards to be put in place. Currently, the federal law has a mandatory proactive requirement placed on the state to identify all areas of surface waters where water quality standards aren't being met and to determine the total maximum daily load. All future permits have to take into account restricted or reduced pollutant discharges that stay within the total maximum daily load. Presumably, that could be done through the temporary modification standards except that the bill does not require the board to do

it. The bill merely allows the board to do so, if it so chooses, upon a petition by an interested party.

Informaticnal Testimony: None

Questions From Committee Members and Responses:

REP. JON ELLINGSON asked **Mr. Pilcher** to explain how SB 346 would improve Montana's water quality. **Mr. Pilcher** said as an example, the department is interested in the improvement of the water quality in the Upper Blackfoot River. The department has been working with the landowners in that area. A permit has been issued and is for a five year period. The permit is the first phase of necessary improvements and allows the company to begin to make improvements to the poor water quality. Additional permits will be needed, each having more stringent effluent limits, until the desired goal of restoring beneficial uses to the stream segment has been met. This approach, as outlined in SB 346, would allow the department to accomplish that goal. The company would give the department information that showed the stream was not supporting beneficial uses. The company would submit a plan to achieve compliance and the plan would be reviewed by DHES and adopted by BHES. Each permit would have to conform to the compliance plan. **REP. ELLINGSON** asked **Mr. Pilcher** why that couldn't be accomplished without SB 346. **Mr. Pilcher** said generally, water discharge permits are to include effluent limits that are protective of water quality in-stream standards. The permit that has been issued for the Mike Horse Mine realize global values and wouldn't be in total compliance with surface water quality standards. It recognizes that further permits will have to be issued in order to achieve complete compliance. **Mr. Pilcher** said he was concerned that the procedure might not be legitimate. SB 346 would legitimize and clarify this procedure.

REP. ELLINGSON asked **Ms. Smith** if she thought the department had the authority to issue the appropriate permit now. **Ms. Smith** said there are three options that DHES can pursue. When water quality standards are not being met permits can be denied. DHES can change the water quality standards by going through the use attainability analysis to lower the water quality standards so that within the five year timeframe those standards could be met. It is possible that even if the standards were lowered the permit requirements couldn't be met. In that case, the permit could be denied. Once the analysis was completed, the department would know what discharge limits could be allowed. Pollutant parameters would have to be really racheted down at that time. **REP. ELLINGSON** asked **Ms. Smith** what the impact of a permit denial would be for a mining company. **Ms. Smith** said ordinarily, if the permit application is denied and the applicant continues to discharge he would be in violation of the state and federal Acts. In Montana the state could sue the applicant in state court for discharging without a permit. Citizens could sue the applicant in federal court and the fine would be 25,000 a day, until the applicant is in compliance.

REP. BOB RANEY asked **Mr. Pilcher** if the bill allowed lower parameters for some things while other things were being improved. **Mr. Pilcher** said the intent of the bill is to allow cleanup to take place and to implement measures that will result in long term improved water quality conditions. For example, if a company puts in some ponds that might be necessary to allow treatment of metals, the construction of the ponds may result in some increase in sediment. That may be a short term impact that is a part of a longer term permanent solution.

REP. HAL HARPER said he noticed in the statement of intent that no discharge would allow water quality to become worse than the water was prior to the discharge and asked **SEN. FORRESTER** if he would be willing to insert that statement in the bill. **SEN. FORRESTER** said section 2 of the bill covers that statement. **REP. HARPER** noted that section 3, subsection (5) also states that a temporary modification of water quality standard may not result in adverse impacts to existing beneficial uses, which is close but is not quite the same thing. The statement of intent talks about water quality becoming worse than the water was prior to discharge. **SEN. FORRESTER** said **REP. HARPER's** intent was to clarify he had no objection but if he had some ulterior motive he would object. **REP. HARPER** assured **SEN. FORRESTER** that he had no ulterior motive.

Tape 2, Side A

REP. RANEY asked **Mr. Jensen** to explain his objection to SB 346 a little more clearly. **Mr. Jensen** said the problem is that the Water Quality Bureau has for more than two decades, refused to enforce the Water Quality Act on discharges like the Mike Horse Mine until enough political and legal pressure was put on it to enforce the law. The bill would allow a company like American Smelting and Mining Company (ASARCO) to pollute the Blackfoot River for another twenty years without having to meet the standards in law. That would be a total of 42 years because it has already been polluting the river for 22 years before it got the permit. If it were impossible for ASARCO to meet the standards, as **Mr. Pilcher** has said, it would make the permit fraudulent.

REP. HARPER asked **Abe Horpestad, DHES,** if the department can't get companies to clean up the water in five years under the permit, why would it be able to in 20 years. **Mr. Horpestad** said because some things take more than five years. There have been statements about total maximum daily loads and wasteload allocations. The implicit assumption in those statements is that they can be taken care of tomorrow and they can't because the department doesn't have the manpower. **REP. HARPER** asked **Mr. Horpestad** what permit Mike Horse Mine was using to discharge, prior to getting the five year permit. **Mr. Horpestad** said Mike Horse didn't have a permit prior to the five year permit. **REP. HARPER** asked **Mr. Horpestad** what would happen when the five year permit expires if the law doesn't change. **Mr. Horpestad** said the

company can demonstrate through the development of site specific criteria that it does not need to achieve Gold Book numbers to protect their uses. If the company can meet the site specific standards, the limits in the permit would be modified to reflect those numbers. If the company doesn't meet the permit limits, it is subject to the penalty provisions of the law. If the company could establish that the water body was originally misclassified and should be in the "I" class, the permit limits would have to be changed to reflect the "I" class standards for water.

Closing by Sponsor:

SEN. FORRESTER SB 346 will spark progress on cleaning up the streams and urged the committee to support it without allowing a lot of amendments that would make it unworkable.

HEARING ON SB 347

Opening Statement by Sponsor:

SEN. BILL CRISMORE, Senate District 41, Libby, said SB 347 allows the Department of State Lands (DSL) to negotiate reciprocal access to facilitate the management of isolated state forest lands. The department would not be required to conduct an environmental assessment of activities on adjoining private land which may be facilitated by granting an easement across state lands. The bill is a clarification of existing DSL policies. SB 347 is needed to protect DSL from lawsuits.

Proponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, said much of the forest land in western Montana is checkerboard ownership among the federal government, State of Montana, corporate landowners and nonindustrial landowners. Not only do private landowners need to secure access across state and federal lands to access their land, but the reverse is true as well. SB 347 is a good neighbor bill. It allows the state and private landowners to negotiate reciprocal access agreements without going through a lot of legal red tape.

Ronald Buentemeier, Lands Manager, F. H. Stoltze Land and Lumber Co., Columbia Falls. Written testimony. **EXHIBIT 3**

Tape 2, Side B

Lech Szumera, Supervisor, Access for Plum Creek Timber Company, Missoula. Written testimony. **EXHIBIT 4**

Robert Spokley, Landowner, Western Montana, supported SB 347.

Nancy Kostman, Montana Forest Products, Kalispell, supported SB 347.

NATURAL RESOURCE
EXHIBIT NO. 7
DATE 2-18-95
BILL NO. SB-346

Amendments to Senate Bill No. 346
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
February 15, 1995

1. Page 2, line 9.
Strike: "If"
Insert: "When"

2. Page 3, line 28.
Following: "which"
Strike: "all designated"
Insert: "an additional"
Following: "beneficial"
Insert: "use or"

3. Page 4, line 9.
Following: "(b)"
Insert: "the"
Following: "beneficial" in two places
Insert: "use or" in two places

4. Page 4, line 13.
Following: "standards"
Insert: "for the parameter or parameters at issue"

5. Page 4, line 17.
Following: "that"
Insert: "reasonable"
Following: "the"
Insert: "implementation"

6. Page 4, line 20.
Following: "a"
Insert: "total"
Strike: "longer than"
Insert: "of"

7. Page 4, line 27.
Following: "review"
Insert: "that the applicant is not complying with the approved implementation plan"

STATE NATURAL RESOURCES
EXHIBIT NO. 7
DATE 2-18-95
BILL NO. SB-346

8. Page 4, line 28.
Following: "standard"
Insert: "for a parameter"

9. Page 5.
Following: line 4
Insert: "(9) The board may modify the plan if the permittee submits convincing evidence to the board that the plan needs modification. The board may not extend the plan beyond a total period of 20 years."
Renumber: the subsequent subsection

10. Page 5, lines 10 and 11.
Strike: "extend beyond" on line 10
Insert: "be in effect for a total period longer than"
Strike: "from" on line 10 through "standard" on line 11
Strike: "and" on line 11
Insert: "in the"

SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 2-18-95
BILL NO. SB-346

Amendments to Senate Bill No. 346
First Reading Copy

Requested by Senator Brooke
For the Committee on Natural Resources

Prepared by Todd Everts
February 18, 1995

1. Page 3, line 23.
Following: "(1)"
Insert: "(a)"

2. Page 3, line 26.
Following: "indicates that"
Insert: ": (i)"

3. Page 3, line 27.
Following: "uses"
Strike: "."
Insert: "; (ii) elimination of the water quality limiting factors is not possible; or (iii) elimination would cause more environmental damage to correct than to leave in place or would result in substantial and widespread economic and social impact. (b)"